

Executive Summary – Enforcement Matter – Case No. 48535
City of Alpine
RN103114690 and RN101176261
Docket No. 2014-0519-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – PWS, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Alpine WWTP, located approximately 2.5 miles northeast of Alpine on the west bank of Alpine Creek, Brewster County ("Facility No. 1")

City of Alpine PWS, 100 North 13th Street, Alpine, Brewster County ("Facility No. 2")

Type of Operation:

Wastewater treatment plant and a public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 25, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$61,698

Amount Deferred for Expedited Settlement: \$12,339

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$49,359

Name of SEP: Wastewater Treatment Plant Improvement (Compliance)

Compliance History Classifications (RN103114690):

Person/CN - Satisfactory

Site/RN - Satisfactory

Compliance History Classifications (RN101176261):

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 48535
City of Alpine
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Docket No. 2014-0519-MLM-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 30, 2012 and March 10, 2014

Date(s) of NOE(s): July 31, 2012, September 17, 2012, and March 28, 2014

Violation Information

1. Failed to prevent the unauthorized discharge of sewage or untreated wastewater into or adjacent to water in the state at Facility No. 1. Specifically, on July 26, 2012, approximately 100,000 gallons of untreated wastewater was diverted at the mechanical bar screen to an unauthorized mechanical oxidation ditch, bypassing treatment. Due to inadequate capacity of the oxidation ditch (filled with sludge and excessive vegetation), wastewater discharged to land, encircling the sludge drying bed, and flowing into an unnamed tributary of Alpine Creek. In addition, approximately 300,000 gallons of untreated wastewater was discharged into two ponds that are not authorized treatment units [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014349001, Permit Conditions No. 2.g. and Sludge Provisions].

2. Failed to prevent the discharge of visible solids into or adjacent to water in the state at Facility No. 1. Specifically, a moderate amount of visible floating solids were observed in the chlorine contact chamber and discharging through Outfall No. 001 [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014349001, Effluent Limitations and Monitoring Requirements No. 4 and Operational Requirements No. 1].

3. Failed to install adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators and/or retention at Facility No. 1 [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014349001, Operational Requirements No. 4].

4. Failed to employ or contract an operator holding a Class B license or higher to operate the facility a minimum of five days per week at Facility No. 1. Specifically, the Respondent's Class B licensed operator was present only one day per week to operate Facility No. 1 [30 TEX. ADMIN. CODE §§ 30.350(j) and 305.125(1) and TPDES Permit No. WQ0014349001, Other Requirements No. 1].

5. Failed to notify the TCEQ prior to physical alterations or additions to Facility No. 1. Specifically, the Respondent has been using two retention ponds and a mechanical oxidation ditch for storage of wastewater and sewage sludge without prior notification [30 TEX. ADMIN. CODE § 305.125(1) and (7) and TPDES Permit No. WQ0014349001, Permit Conditions No. 4.a. and Sludge Provisions].

Executive Summary – Enforcement Matter – Case No. 48535
City of Alpine
RN103114690 and RN101176261
Docket No. 2014-0519-MLM-E

6. Failed to calibrate the well meters at least once every three years at Facility No. 2. Specifically, at the time of the record review, flow meters for thirteen active wells had not been calibrated in the previous three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By October 4, 2013, employed a licensed Class B wastewater treatment facility operator for Facility No. 1 who is present five days per week;
- b. By July 22, 2014, removed sludge and floating solids from the chlorine contact chamber thereby preventing visible floating solids from discharging through Outfall No. 001, and refurbished and placed into use the second chlorine contact chamber; and
- c. By July 22, 2014, repaired the emergency power generator switch box and placed an operational mobile power generator on line.

Technical Requirements:

- 1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
 - 2. The Order will also require the Respondent to:
 - a. Immediately, cease storing any additional wastewater and/or sewage sludge in the unauthorized mechanical oxidation ditch and two retention ponds at Facility No. 1.
 - b. Within 10 days, submit notification of the use of two retention ponds and a mechanical oxidation ditch at Facility No. 1 for the storage of wastewater and sewage sludge.
 - c. Within 25 days, submit written certification of compliance with a. and b.
 - d. Within 60 days:
 - i. Submit an administratively complete permit amendment application, requesting authorization to use the mechanical oxidation ditch and the-two retention ponds;
- or

Executive Summary – Enforcement Matter – Case No. 48535
City of Alpine
RN103114690 and RN101176261
Docket No. 2014-0519-MLM-E

ii. Submit a closure plan to close the mechanical oxidation ditch and two retention ponds at Facility No. 1.

e. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application or closure plan for Facility No. 1 within 30 days after the date of such requests or by any other deadline specified in writing.

f. Within 60 days, begin collecting, removing, and properly disposing of all untreated wastewater and sludge from the affected areas at Facility No. 1, including the mechanical oxidation ditch and the two retention ponds, and properly remediate the affected areas. Disposal of any removed materials shall be carried out in accordance with all applicable rules of the TCEQ and in a manner that prevents the contamination of surface or groundwater. The Facility shall maintain written records of the location, nature and amount of each type of sludge or other deposits removed, the technique used for removal and transport, and the ultimate disposal site.

g. Within 60 days, calibrate all well meters for all active wells at Facility No. 2.

h. Within 75 days, submit written certification of compliance with d., f., and g.

i. Within 180 days and on a semi-annual basis, submit a report to the TCEQ that contains information regarding the progress of the corrective actions. The report shall include specific corrective actions that were completed during the reporting period, including photographs, as well as any corrective actions that were delayed or not completed, including explanations why the actions were delayed or not completed.

j. Within 730 days, complete the collection, removal, proper disposal of all untreated wastewater and sludge from the affected areas at Facility No. 1, including the mechanical oxidation ditch and the two retention ponds, and proper remediation of the affected areas.

k. Within 745 days, submit written certification of compliance with j.

l. Within 790 days, submit written certification that either:

i. Authorization to operate the mechanical oxidation ditch and two retention ponds at Facility No. 1 has been obtained;

or

ii. The mechanical oxidation ditch and two retention ponds have been closed as described in an approved closure plan.

Executive Summary – Enforcement Matter – Case No. 48535
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Docket No. 2014-0519-MLM-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205
Respondent: Erik M. Zimmer, City Manager, City of Alpine, 100 North 13th Street, Alpine, Texas 79830-4401
The Honorable Avinash Rangra, Mayor, City of Alpine, 100 North 13th Street, Alpine, Texas 79830-4401
Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0519-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Alpine
Penalty Amount:	Forty-Nine Thousand Three Hundred Fifty-Nine Dollars (\$49,359)
SEP Offset Amount:	Forty-Nine Thousand Three Hundred Fifty-Nine Dollars (\$49,359)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Plant Improvement</i>
Location of SEP:	Brewster County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s wastewater treatment plant. Respondent shall purchase and install a 20-cubic yard Roll-Off Sludge Mate that is designed to assist in daily operations by allowing loads of future wasted sludge to be dried directly in the bin for 24 hours. Respondent shall also hire a contractor to build a walkway inside the oxidation ditch to access the floating aerator inside the middle lane. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: 20-cubic yard roll-off Sludge Mate and construction of the walkway (the “Project”). Respondent shall solicit bids from qualified contractors to install the system and build the walkway. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity.

The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset

Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent is performing the Compliance SEP solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
20-Cubic yard roll-off Sludge Mate	1	\$30,150	Each	\$30,150
Walkway materials and construction	1	\$57,345	Each	\$57,345
Total				\$87,495

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids, if applicable (publication must include the enforcement statement, as stated in Section 6, Publicity);
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	14-Apr-2014	Screening	15-Apr-2014	EPA Due	
	PCW	31-Mar-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Alpine (Facility No. 1)		
Reg. Ent. Ref. No.	RN103114690		
Facility/Site Region	6-El Paso	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48535	No. of Violations	5
Docket No.	2014-0519-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$60,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History **9.0%** Enhancement **Subtotals 2, 3, & 7** **\$5,400**

Notes: Enhancement for one self-reported violation and two NOV's with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$4,875**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$42,067
Approx. Cost of Compliance \$174,675
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$60,525**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$60,525**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$60,525**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$12,105**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$48,420**

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103114690

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 9%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one self-reported violation and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 9%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 9%

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103114690

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014349001, Permit Conditions No. 2.g and Sludge Provisions

Violation Description

Failed to prevent the unauthorized discharge of sewage or untreated wastewater into or adjacent to water in the state, as documented during an investigation conducted on July 30, 2012. Specifically, on July 26, 2012, approximately 100,000 gallons of untreated wastewater was diverted at the mechanical bar screen to an unauthorized mechanical oxidation ditch, bypassing treatment. Due to inadequate capacity of the oxidation ditch (filled with sludge and excessive vegetation), wastewater discharged to land, encircling the sludge drying bed, and flowing into an unnamed tributary of Alpine Creek. In addition, approximately 300,000 gallons of untreated wastewater was discharged into two ponds that are not authorized as treatment units.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of these discharges of untreated wastewater.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

4

Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended, calculated from the July 26, 2012 date the discharge began to the July 30, 2012 date the discharge ceased.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32,346

Violation Final Penalty Total \$8,175

This violation Final Assessed Penalty (adjusted for limits) \$8,175

Economic Benefit Worksheet

Respondent City of Alpine (Facility No. 1)
Case ID No. 48535
Reg. Ent. Reference No. RN103114690
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$120,000	26-Jul-2012	10-Oct-2017	5.21	\$31,266	n/a	\$31,266
Permit Costs	\$4,050	26-Jul-2012	24-Nov-2017	5.33	\$1,080	n/a	\$1,080
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to collect, remove, and properly dispose of discharged untreated wastewater and sewage sludge from the affected areas, mechanical oxidation ditch and the two retention ponds and properly remediate the affected areas. Date Required is the date the discharges began. Final Date is the expected date of compliance.

Estimated cost to prepare and submit an application for a permit amendment and obtain authorization for use of the two retention ponds and mechanical oxidation ditch, or submit a closure plan for the closure of the mechanical oxidation ditch and the two retention ponds and implement the approved closure plan. Date Required is the date of the discharges. Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$124,050

TOTAL \$32,346

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103114690

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5), and TPDES Permit No. WQ0014349001,
Effluent Limitations and Monitoring Requirements No. 4 and Operational
Requirements No. 1

Violation Description

Failed to prevent the discharge of visible solids into or adjacent to water in the
state, as documented during an investigation conducted on July 30, 2012.
Specifically, a moderate amount of visible floating solids were observed in the
chlorine contact chamber and discharging through Outfall No. 001.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

77 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended, calculated from the July 30, 2012 investigation date to the
October 15, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$375

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance on July 22, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$198

Violation Final Penalty Total \$3,713

This violation Final Assessed Penalty (adjusted for limits) \$3,713

Economic Benefit Worksheet

Respondent City of Alpine (Facility No. 1)
Case ID No. 48535
Reg. Ent. Reference No. RN103114690
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	30-Jul-2012	22-Jul-2014	1.98	\$198	n/a	\$198

Notes for DELAYED costs

Estimated cost to remove sludge and floating solids from the chlorine contact chamber and refurbish and place into use the second chlorine contact chamber. Date Required is the investigation date. The final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$198

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103114690

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0014349001, Operational Requirements No. 4

Violation Description

Failed to install adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention, as documented during an investigation on July 30, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	X		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3

77 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

Three monthly events are recommended, calculated from the July 30, 2012 investigation date to the October 15, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$2,250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance on July 22, 2014.

Violation Subtotal \$20,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,077

Violation Final Penalty Total \$22,275

This violation Final Assessed Penalty (adjusted for limits) \$22,275

Economic Benefit Worksheet

Respondent City of Alpine (Facility No. 1)
Case ID No. 48535
Reg. Ent. Reference No. RN103114690
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment	\$15,000	30-Jul-2012	22-Jul-2014	1.98	\$99	\$1,978	\$2,077
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the emergency power generator switch box and place an operational mobile power generator on line to prevent the discharge of untreated or inadequately treated wastes from Facility No. 1 and its collection system during electrical power failures. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$2,077

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103114690

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 30.350(j) and 305.125(1) and TPDES Permit No. WQ0014349001, Other Requirements No. 1

Violation Description

Failed to employ or contract an operator holding a Class B license or higher to operate the facility a minimum of five days per week, as documented during an investigation conducted on July 30, 2012. Specifically, the Respondent's Class B licensed operator was only present one day per week to operate the facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	X		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Operating the Facility without a licensed operator present a minimum of five days per week is insufficient for the proper maintenance and operation of the Facility. As a result, human health and the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3

77 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$22,500

Three monthly events are recommended, calculated from the July 30, 2012 Investigation date to the October 15, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$2,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent documented compliance on October 4, 2013.

Violation Subtotal \$20,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,443

Violation Final Penalty Total \$22,275

This violation Final Assessed Penalty (adjusted for limits) \$22,275

Economic Benefit Worksheet

Respondent City of Alpine (Facility No. 1)
Case ID No. 48535
Reg. Ent. Reference No. RN103114690
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel	\$33,600	30-Jul-2012	15-Oct-2012	0.21	\$354	\$7,088	\$7,443
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to contract with a Class B or higher licensed operator to be present and operate the Facility five days per week. Date required is investigation date. The final date is the screening date.

Approx. Cost of Compliance **\$33,600**

TOTAL **\$7,443**

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103114690

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (7), and TPDES Permit No. WQ0014349001, Permit Conditions No. 4.a and Sludge Provisions

Violation Description

Failed to notify the TCEQ prior to physical alterations or additions to the permitted facility, as documented during an investigation conducted on July 30, 2012. Specifically, the Respondent has been using two retention ponds and a mechanical oxidation ditch for storage of wastewater and sewage sludge without prior notification.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

77 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$4,088

This violation Final Assessed Penalty (adjusted for limits) \$4,088

Economic Benefit Worksheet

Respondent City of Alpine (Facility No. 1)
Case ID No. 48535
Reg. Ent. Reference No. RN103114690
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	30-Jul-2012	21-Oct-2015	3.23	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to prepare and submit a notification of the use of two retention ponds and a mechanical oxidation ditch for the storage of wastewater and sewage sludge. Date Required is the Investigation date. Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$4

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600624290, RN103114690, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600624290, City of Alpine **Classification:** SATISFACTORY **Rating:** 1.30

Regulated Entity: RN103114690, ALPINE WWTP **Classification:** SATISFACTORY **Rating:** 2.93

Complexity Points: 8

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: APPROX 2.5 MI NE OF ALPINE, ON W BANK OF ALPINE CREEK IN BREWSTER COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

WASTEWATER PERMIT WQ0014349001

WASTEWATER EPA ID TX0022985

WASTEWATER AUTHORIZATION R14349001

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: December 29, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 29, 2009 to December 29, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	January 21, 2010	(806233)
Item 2	February 22, 2010	(806224)
Item 3	April 12, 2010	(831433)
Item 4	May 21, 2010	(831434)
Item 5	June 14, 2010	(826615)
Item 6	June 15, 2010	(825867)

Item 7	June 17, 2010	(846442)
Item 8	July 12, 2010	(861013)
Item 9	August 05, 2010	(843421)
Item 10	October 05, 2010	(865078)
Item 11	October 13, 2010	(925294)
Item 12	October 21, 2010	(925295)
Item 13	November 16, 2010	(866308)
Item 14	December 10, 2010	(880616)
Item 15	December 27, 2010	(925293)
Item 16	December 30, 2010	(888202)
Item 17	January 24, 2011	(902490)
Item 18	February 12, 2011	(909266)
Item 19	February 15, 2011	(909267)
Item 20	March 21, 2011	(916526)
Item 21	March 28, 2011	(900696)
Item 22	March 31, 2011	(907861)
Item 23	May 13, 2011	(914228)
Item 24	August 18, 2011	(944569)
Item 25	October 24, 2011	(965526)
Item 26	December 06, 2011	(968549)
Item 27	December 19, 2011	(984499)
Item 28	January 27, 2012	(990787)
Item 29	March 12, 2012	(1010247)
Item 30	March 26, 2012	(1003678)
Item 31	May 07, 2012	(1024371)
Item 32	May 23, 2012	(1016635)
Item 33	June 18, 2012	(1024372)
Item 34	July 30, 2012	(1031753)
Item 35	September 04, 2012	(1038124)
Item 36	October 04, 2012	(1061633)
Item 37	October 09, 2012	(1036224)
Item 38	November 01, 2012	(1061634)
Item 39	November 30, 2012	(1061635)
Item 40	January 22, 2013	(1079361)
Item 41	March 27, 2013	(1089497)
Item 42	April 03, 2013	(1089498)
Item 43	July 01, 2013	(1110486)
Item 44	December 19, 2013	(1128110)
Item 45	December 20, 2013	(1147322)
Item 46	December 23, 2013	(1147323)
Item 47	February 28, 2014	(1160721)
Item 48	March 10, 2014	(1160722)
Item 49	March 18, 2014	(1167376)
Item 50	May 05, 2014	(1174499)
Item 51	May 22, 2014	(1170044)
Item 52	May 23, 2014	(1180696)
Item 53	July 02, 2014	(1187592)
Item 54	July 21, 2014	(1193804)
Item 55	August 18, 2014	(1185850)
Item 56	August 26, 2014	(1198873)
Item 57	September 22, 2014	(1205990)
Item 58	October 23, 2014	(1212405)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	12/31/2013	(1160723)	CN600624290
	Self Report?	YES		
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
	Classification:	Moderate		

2

Date: 05/20/2014 (1()29)

CN600624290

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 327.3(b)

Description: Failure to notify within twenty four hours. At the time of the file review investigation, the investigator noted that the elapsed time between the discharge and the notification was approximately 26 hours. Additionally, the form submitted was not completed.

3

Date: 05/21/2014 (1159412)

CN600624290

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 217, SubChapter C 217.61
30 TAC Chapter 317.3(c)

Description: Failure to maintain a minimum of two functional pumps at the lift station. At the time of the on-site investigation on April 17, 2014, the investigator noted that the lift station had only one functional pump.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 217, SubChapter C 217.59(d)

Description: Failure to maintain screen on lift station passive ventilation. At the time of the on-site investigation on April 17, 2014, the investigator noted that the interior ceiling vent was not screened.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 217, SubChapter A 217.6(b)

Description: Failure to maintain wet well in a gas tight condition. At the time of the on-site investigation on April 17, 2014, the investigator noted that the lift station east wall had been perforated to accommodate a pipe through it, and the perforation has not been sealed to the pipe. The lift station wet well lid is partially open to the interior of the lift station, effectively causing the entire structure to function as a "wet well".

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned PCW	14-Apr-2014	Screening	15-Apr-2014	EPA Due	
		6-Mar-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Alpine (Facility No. 2)		
Reg. Ent. Ref. No.	RN101176261		
Facility/Site Region	6-El Paso	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48535	No. of Violations	1
Docket No.	2014-0519-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Quality	Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$910**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **29.0%** Enhancement **Subtotals 2, 3, & 7** **\$263**

Notes: Enhancement for one order without denial and two NOV's with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$484**
Estimated Cost of Compliance **\$403**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,173**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,173**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,173**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$234**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$939**

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 2)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101176261

Media [Statute] Public Water Supply

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one order without denial and two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 29%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 29%

Screening Date 15-Apr-2014

Docket No. 2014-0519-MLM-E

PCW

Respondent City of Alpine (Facility No. 2)

Policy Revision 4 (April 2014)

Case ID No. 48535

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101176261

Media [Statute] Public Water Supply

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(s)(1)

Violation Description

Failed to calibrate the Facility's well meters at least once every three years, as documented during a record review conducted on March 10, 2014. Specifically, flow meters for thirteen active wells had not been calibrated in the previous three years.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			X

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix
Notes

Failure to have the well meters calibrated could result in inaccurate or unavailable water usage and production data, which could expose customers of the Facility to an insignificant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$930

\$70

Violation Events

Number of Violation Events 13

1096 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$910

Thirteen single events are recommended (one per active meter).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$910

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$484

Violation Final Penalty Total \$1,174

This violation Final Assessed Penalty (adjusted for limits) \$1,174

Economic Benefit Worksheet

Respondent City of Alpine (Facility No. 2)
Case ID No. 48535
Reg. Ent. Reference No. RN101176261
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$403	10-Mar-2011	15-Apr-2014	4.02	\$81	\$403	\$484
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meters (\$31 x 13 meters), calculated for the three years prior to the March 10, 2014 record review date to the screening date (April 15, 2014).

Approx. Cost of Compliance

\$403

TOTAL

\$484

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600624290, RN101176261, Rating Year 2014 which Includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600624290, City of Alpine **Classification:** SATISFACTORY **Rating:** 1.30

Regulated Entity: RN101176261, CITY OF ALPINE PWS **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 100 N 13TH STREET IN ALPINE, BREWSTER COUNTY, TEXAS

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0220001

WATER LICENSING LICENSE 0220001

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: December 29, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 29, 2009 to December 29, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1. **Effective Date:** 11/03/2011 **ADMINORDER** 2010-0421-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(i)
Description: Failed to keep on file at the Facility and make available for review during Inspections records concerning variances or exceptions granted to the Facility.
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Rqmt Prov: OP 3.b.v. ORDER
Description: Failed to enclose all ground storage tanks with an intruder-resistant fence.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
Description: Failed to protect all well sites with an intruder-resistant fence.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | | |
|---|---|--------------------------|
| 1 | Date: 08/08/2014 (1178759) | CN600624290 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter D 290.46(r) | |
| | Description: Failure to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. At the time of the investigation, the public water system was not providing a minimum pressure of 35 psi throughout the distribution system as required by the TCEQ rules and regulations. | |
| | | |
| 2 | Date: 12/17/2014 (1210261) | CN600624290 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter D 290.46(r) | |
| | Description: Failure to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. At the time of the investigation, the public water system was not providing a minimum pressure of 35 psi to a residence on Matewan Drive as required by the TCEQ rules and regulations. | |

F. Environmental audits:

N/A.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CITY OF ALPINE	§	
RN103114690 and RN101176261	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2014-0519-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Alpine ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 2.5 miles northeast of Alpine, on the west bank of Alpine Creek in Brewster County, Texas ("Facility No. 1"), and a public water supply at 100 North 13th Street in Alpine, Brewster County, Texas that has approximately 2,518 service connections and serves at least 25 people per day for at least 60 days per year ("Facility No. 2").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about August 24, 2012, September 29, 2012, and March 31, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Sixty-One Thousand Six Hundred Ninety-Eight Dollars (\$61,698) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Twelve Thousand Three Hundred Thirty-Nine Dollars (\$12,339) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Forty-Nine Thousand Three Hundred Fifty-Nine Dollars (\$49,359) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures:
 - a. By October 4, 2013, employed a licensed Class B wastewater treatment facility operator for Facility No. 1 who is present five days per week;
 - b. By July 22, 2014, removed sludge and floating solids from the chlorine contact chamber thereby preventing visible floating solids from discharging through Outfall No. 001, and refurbished and placed into use the second chlorine contact chamber; and
 - c. By July 22, 2014, repaired the emergency power generator switch box and placed an operational mobile power generator on line.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of Facility Nos. 1 and 2, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of sewage or untreated wastewater into or adjacent to water in the state at Facility No. 1, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014349001, Permit Conditions No. 2.g and Sludge Provisions, as documented during an investigation conducted on July 30, 2012. Specifically, on July 26, 2012, approximately 100,000 gallons of untreated wastewater was diverted at the mechanical bar screen to an unauthorized mechanical oxidation ditch, bypassing treatment. Due to inadequate capacity of the oxidation ditch (filled with sludge and excessive vegetation), wastewater discharged to land, encircling the sludge drying bed, and flowing into an unnamed tributary of Alpine Creek. In addition, approximately 300,000 gallons of untreated wastewater was discharged into two ponds that are not authorized treatment units.
2. Failed to prevent the discharge of visible solids into or adjacent to water in the state at Facility No. 1, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014349001, Effluent Limitations and Monitoring Requirements No. 4 and Operational Requirements No. 1, as documented during an investigation conducted on July 30, 2012. Specifically, a moderate amount of visible floating solids were observed in the chlorine contact chamber and discharging through Outfall No. 001.
3. Failed to install adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators and/or retention at Facility No. 1, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0014349001, Operational Requirements No. 4, as documented during an investigation conducted on July 30, 2012.
4. Failed to employ or contract an operator holding a Class B license or higher to operate the facility a minimum of five days per week at Facility No. 1, in violation of 30 TEX. ADMIN. CODE §§ 30.350(j) and 305.125(1) and TPDES Permit No. WQ0014349001, Other Requirements No. 1, as documented during an investigation conducted on July 30, 2012. Specifically, the Respondent's Class B licensed operator was present only one day per week to operate Facility No. 1.
5. Failed to notify the TCEQ prior to physical alterations or additions to Facility No. 1, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (7) and TPDES Permit No. WQ0014349001, Permit Conditions No. 4.a and Sludge Provisions, as documented during an investigation conducted on July 30, 2012. Specifically, the Respondent has been using two retention ponds and a mechanical oxidation ditch for storage of wastewater and sewage sludge without prior notification.
6. Failed to calibrate the well meters at least once every three years at Facility No. 2, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1), as documented during a record review conducted on March 10, 2014. Specifically, at the time of the record review, flow meters for thirteen active wells had not been calibrated in the previous three years.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Alpine, Docket No. 2014-0519-MLM-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Forty-Nine Thousand Three Hundred Fifty-Nine Dollars (\$49,359) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease storing any additional wastewater and/or sewage sludge in the unauthorized mechanical oxidation ditch and two retention ponds at Facility No. 1, in accordance with TPDES Permit No. WQ0014349001.
 - b. Within 10 days after the effective date of this Agreed Order, submit notification of the use of two retention ponds and a mechanical oxidation ditch at Facility No. 1 for the storage of wastewater and sewage sludge, in accordance with 30 TEX. ADMIN. CODE § 305.125(7) and TPDES Permit No. WQ0014349001 to:

Municipal Permits Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 25 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a and 3.b, in accordance with Ordering Provision No. 3.m below.
- d. Within 60 days after the effective date of this Agreed Order:
 - i. Submit an administratively complete permit amendment application, requesting authorization to use the mechanical oxidation ditch and the two retention ponds to:

Application Review and Processing Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

or

- ii. Submit a closure plan to close the mechanical oxidation ditch and two retention ponds at Facility No. 1, in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Municipal Permits Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- e. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application or closure plan for Facility No. 1 within 30 days after the date of such requests or by any other deadline specified in writing.
- f. Within 60 days after the effective date of this Agreed Order, begin collecting, removing, and properly disposing of all untreated wastewater and sludge from the affected areas at Facility No. 1, including the mechanical oxidation ditch and the two retention ponds, and properly remediate the affected areas. Disposal of any removed materials shall be carried out in accordance with all applicable rules of the TCEQ and in a manner that prevents the contamination of surface or groundwater. The Facility shall maintain written records of the location, nature and amount of each type of sludge or other deposits removed, the technique used for removal and transport, and the ultimate disposal site.
- g. Within 60 days after the effective date of this Agreed Order, calibrate all well meters for all active wells at Facility No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.46(s)(1).
- h. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.d, 3.f, and 3.g, in accordance with Ordering Provision No. 3.m below.

- i. Within 180 days after the effective date of this Agreed Order and on a semi-annual basis thereafter, submit a report to the TCEQ that contains information regarding the progress of the corrective actions contained in Ordering Provision No. 3.f. The report shall include specific corrective actions that were completed during the reporting period, including photographs, as well as any corrective actions that were delayed or not completed, including explanations why the actions were delayed or not completed. The reports shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

- j. Within 730 days after the effective date of this Agreed Order, complete the collection, removal, proper disposal of all untreated wastewater and sludge from the affected areas at Facility No. 1, including the mechanical oxidation ditch and the two retention ponds, and proper remediation of the affected areas.
- k. Within 745 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.j, in accordance with Ordering Provision No. 3.m below.
- l. Within 790 days after the effective date of this Agreed Order, submit written certification, in accordance with Ordering Provision No. 3.m below, that either:
 - i. Authorization to operate the mechanical oxidation ditch and two retention ponds at Facility No. 1 has been obtained;
 - or
 - ii. The mechanical oxidation ditch and two retention ponds have been closed as described in an approved closure plan.
- m. The certifications required by Ordering Provision Nos. 3.c, 3.h, 3.k, and 3.l shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with all permit requirements and/or closure plans and to complete remediation of the receiving stream, and shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with copies to:

Water Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions (excluding Ordering Provision No. 3.g) in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to:
(1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/16/16


Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

11-18-15

Date

Erik M. Zimmer

Name (Printed or typed)
Authorized Representative of
City of Alpine

City Manager

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2014-0519-MLM-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Alpine
Penalty Amount:	Forty-Nine Thousand Three Hundred Fifty-Nine Dollars (\$49,359)
SEP Offset Amount:	Forty-Nine Thousand Three Hundred Fifty-Nine Dollars (\$49,359)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Plant Improvement</i>
Location of SEP:	Brewster County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at Respondent's wastewater treatment plant. Respondent shall purchase and install a 20-cubic yard Roll-Off Sludge Mate that is designed to assist in daily operations by allowing loads of future wasted sludge to be dried directly in the bin for 24 hours. Respondent shall also hire a contractor to build a walkway inside the oxidation ditch to access the floating aerator inside the middle lane. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: 20-cubic yard roll-off Sludge Mate and construction of the walkway (the "Project"). Respondent shall solicit bids from qualified contractors to install the system and build the walkway. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity.

The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset

Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent is performing the Compliance SEP solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
20-Cubic yard roll-off Sludge Mate	1	\$30,150	Each	\$30,150
Walkway materials and construction	1	\$57,345	Each	\$57,345
Total				\$87,495

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids, if applicable (publication must include the enforcement statement, as stated in Section 6, Publicity);
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.